

§ 18.601

statutory authority, or pursuant to executive order, the privilege of a witness, person, government, State, or political subdivision thereof shall be governed by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience. However with respect to an element of a claim or defense as to which State law supplies the rule of decision, the privilege of a witness, person, government, State, or political subdivision thereof shall be determined in accordance with State law.

WITNESSES

§ 18.601 General rule of competency.

Every person is competent to be a witness except as otherwise provided in these rules. However with respect to an element of a claim or defense as to which State law supplies the rule of decision, the competency of a witness shall be determined in accordance with State law.

§ 18.602 Lack of personal knowledge.

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of § 18.703, relating to opinion testimony by expert witnesses.

§ 18.603 Oath or affirmation.

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

§ 18.604 Interpreters.

An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation to make a true translation.

29 CFR Subtitle A (7-1-98 Edition)

§ 18.605 Competency of judge as witness.

The judge presiding at the hearing may not testify in that hearing as a witness. No objection need be made in order to preserve the point.

§ 18.606 [Reserved]

§ 18.607 Who may impeach.

The credibility of a witness may be attacked by any party, including the party calling the witness.

§ 18.608 Evidence of character and conduct of witness.

(a) *Opinion and reputation evidence of character.* The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations:

(1) The evidence may refer only to character for truthfulness or untruthfulness, and

(2) Evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(b) *Specific instances of conduct.* Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in § 18.609, may not be proved by extrinsic evidence. They may, however, in the discretion of the judge, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness, concerning the witness' character for truthfulness or untruthfulness, or concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony by any witness does not operate as a waiver of the witness' privilege against self-incrimination when examined with respect to matters which relate only to credibility.

§ 18.609 Impeachment by evidence of conviction of crime.

(a) *General rule.* For the purpose of attacking the credibility of a witness,